

§ 1786.56

apply to the appropriate RUS Area Director by submitting:

(a) A board resolution that:

(1) Requests approval of the prepayment of the borrower's outstanding RUS Notes, and

(2) States the intent of the borrower to comply with all eligibility criteria set forth in § 1786.54 of this subpart.

(b) A list of all RUS Notes together with the outstanding amount on such notes.

(c) Such additional information as the Administrator shall request.

§ 1786.56 Approval of applications.

The applications will ordinarily be reviewed and, if satisfactory, approved, and closing schedule based on the order in which executed prepayment agreements are received. The Administrator may limit the number of applications approved and closings scheduled from time to time taking into account, among other matters, the financial interests and administrative considerations of the Government.

§ 1786.57 Prepayment agreement.

Upon approving an application for prepayment under this subpart, the Administrator shall notify the borrower and deliver to the borrower for its execution a prepayment agreement which shall set forth and provide:

(a) The RUS Notes to be prepaid and when the Discounted Present Value will be calculated.

(b) The place and conditions for closing.

(c) Agreement that the unadvanced balance of RUS Notes shall be rescinded.

(d) Agreement that the borrower, or its successors or assigns, shall pay to the Government, as a condition of receiving additional loans or loan guarantees pursuant to Titles I, II and III of the Act, an amount equal to the aggregate of the difference with respect to each of the RUS Notes between the amount outstanding on the RUS Note and the Discounted Present Value of the RUS Note upon prepayment with interest accruing quarterly; the interest rates shall be the rates provided in the respective RUS Notes.

7 CFR Ch. XVII (1-1-05 Edition)

(e) Assurances that the borrower will meet its obligations to any power supplier financed pursuant to the Act.

(f) Such other terms and conditions as the Administrator deems appropriate.

§ 1786.58 Security.

If, after prepayment of RUS Notes, the Government should continue to hold liens on the borrower's property that secure loans made or guaranteed pursuant to the Act, the Administrator of RUS or the Governor of the Rural Telephone Bank, as the case may be, will consider request for the accommodation of such liens for the purpose of providing security for loans the proceeds of which were used to prepay RUS Notes. Such lien accommodations shall be limited in amount to the Discounted Present Value of the RUS Notes plus such costs, as the Administrator shall determine to be reasonable, incurred by the borrower in obtaining such loans.

§ 1786.59 Loan fund audit.

Within 6 months of closing RUS shall have the right to audit transactions involving the RUS construction fund established and maintained by the borrower pursuant to the terms of the RUS Loan Agreement and to inspect all books, records, accounts and other documents and papers of the borrower. Should RUS determine that the borrower has made disbursements of funds advanced pursuant to RUS Notes which do not comply with the requirements of the RUS Loan Agreement, the borrower shall be required to pay to the Government an amount equal to the difference between the amount which the borrower prepaid on such RUS Notes evidencing RUS loan funds which were improperly disbursed and the amount which the borrower would otherwise have been required to return to the Government as a result of non-compliance if the borrower had not prepaid such RUS Notes. (See 7 CFR part 1721)

§ 1786.60 Closing.

(a) The borrower shall be responsible for obtaining all approvals necessary to consummate the transaction as required by the prepayment agreement

Rural Utilities Service, USDA

§ 1786.97

including such approvals as may be required by regulatory bodies and other lenders.

(b) The RUS Notes shall be prepaid at a closing to be held in accordance with the prepayment agreement; *Provided, however*, That no closing may be scheduled for after September 30, 1987. At closing, a borrower shall prepay the RUS Notes by paying to the Government an amount equal to the Discounted Present Value of the RUS Notes. The closing shall otherwise be conducted as prescribed in the prepayment agreement.

§ 1786.61 Other prepayments.

RUS loan documentation generally permits borrowers to prepay RUS Notes by paying the outstanding balance due thereon. Nothing in this subpart shall prohibit any borrower from prepaying its outstanding RUS Notes in accordance with the terms thereof. The provisions of this subpart shall not be applicable to such prepayment.

§§ 1786.62–1786.74 [Reserved]

Subpart D [Reserved]

Subpart E—Discounted Prepayments on RUS Notes in the Event of a Merger of Certain RUS Electric Borrowers

SOURCE: 56 FR 37268, Aug. 6, 1991, unless otherwise noted.

§ 1786.95 Purpose.

This subpart sets forth the policies and procedures of RUS whereby certain electric borrowers may prepay outstanding RUS Notes at the Discounted Present Value of the RUS Notes with private financing.

§ 1786.96 Definitions.

As used in this subpart:

Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

Administrator means the Administrator of RUS.

Consolidation means:

(1) The combination, pursuant to state law, of two or more borrower or nonborrower organizations into a new

successor organization that takes over the assets and assumes the liabilities of those organizations; or

(2) Any other transaction including an acquisition which has substantially the same effect.

Discounted Present Value shall have the meaning specified in § 1786.98.

Fund means the Rural Electrification and Telephone Revolving Fund pursuant to the Act.

Merger means:

(1) The combination, pursuant to state law, of two or more borrower or nonborrower organizations into an existing survivor organization that takes over the assets and assumes the liabilities of the merged organizations; or

(2) Any other transaction including an acquisition which has substantially the same effect.

REA means the Rural Electrification Administration formerly an agency of the United States Department of Agriculture and predecessor agency to RUS with respect to administering certain electric and telephone loan programs.

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture established pursuant to Section 232 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354, 108 Stat. 3178), successor to REA with respect to administering certain electric and telephone programs. See 7 CFR 1700.1.

RUS Loan Agreement means the agreement between the borrower and RUS providing for loans pursuant to the Act.

RUS Notes means those notes, bonds or other obligations evidencing indebtedness created by loans made or guaranteed by RUS pursuant to titles I and III of the Act (7 U.S.C. 901–940).

[56 FR 37268, Aug. 6, 1991, as amended at 59 FR 66440, Dec. 27, 1994]

§ 1786.97 Prepayment.

There were 29 former RUS electric borrowers that prepaid their direct or insured loans under section 306B(a) of the Act prior to October 1, 1987. (See subpart C of this part.) These borrowers are listed in appendix A to subpart E of this part. Any RUS electric borrower which is the result of a merger or consolidation involving any of